

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

**CARL ROBINSON**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO. 3:08CV788 WHB-LRA**

**CHRISTOPHER B. EPPS AND  
JACKIE PARKER**

**DEFENDANTS**

---

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

This cause was scheduled for an Omnibus hearing before the Undersigned United States Magistrate Judge on June 17, 2009. Carl Robinson [hereinafter "Plaintiff"] was notified of this hearing at the mailing address that he provided to the Court: Post Office Box 8636, Moss Point, Mississippi 39563. Plaintiff notified the Court of this change of address on March 5, 2009. An Order setting this matter for Omnibus Hearing was forwarded to Plaintiff on March 23, 2009. The notice of the hearing was not returned by the United States Postal Service as undeliverable, so the Court must assume that Plaintiff received his notice.

On the date set for the hearing, Attorney Pelicia Hall, counsel for Defendants Christopher Epps and Jackie Parker, was present. Plaintiff did not appear, however, despite attempts to locate him in the courthouse. Because Plaintiff did not attend the scheduled hearing, the Court was unable to conduct the proceedings in his absence. The Court will be unable to go forward in this cause if it cannot locate Plaintiff or otherwise communicate with him.

It is therefore the opinion of the Undersigned that this case should be dismissed *sua sponte* without prejudice due to Plaintiff's failure to prosecute his

case and to obey the orders of the Court. In the Court's [3] Order, filed January 7, 2009, Plaintiff was notified that he was required to keep the Court informed of his current address; otherwise, his claims may be dismissed. In this Court's [16] Order Setting Omnibus Hearing, Plaintiff was ordered to appear for an Omnibus Hearing before the Undersigned United States Magistrate Judge at the James O. Eastland Courthouse, 245 E. Capitol Street, Fifth Floor, Hearing Room 526, Jackson, Mississippi, on June 17, 2009, at 9:00 A.M. This Court has the authority to dismiss an action for failure of a plaintiff to prosecute or to comply with any order of the court both under Fed. R. Civ. P. 41(b) and under its inherent authority. See **McCullough v. Lynaugh**, 835 F.2d 1126 (5th Cir. 1988); **Link v. Wabash R.R. Co.**, 370 U.S. 626, 630-631 (1962).

The Court must be also able to clear its calendars of cases that remain dormant because of the inaction or dilatoriness of the parties seeking relief, so as to achieve the orderly and expeditious disposition of cases. Such a sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the court. **Link**, *supra*, 370 U.S. at 630. The actions of the Plaintiff also prejudice the rights of the Defendants to promptly and fully defend the claims made against them. Defendants have also incurred unnecessary costs by having their attorneys attend the scheduled hearing which could not be conducted. For these reasons, the Undersigned recommends that this cause of action be dismissed pursuant to Fed. R. Civ. P. 41(b), without prejudice.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation within ten (10) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. 28 U.S.C. § 636; **Douglass v. United Services Auto. Ass'n**, 79 F.3d 1415, 1428-29 (5<sup>th</sup> Cir. 1996).

THIS the 30th day of June, 2009.

S/Linda R. Anderson  
UNITED STATES MAGISTRATE JUDGE